

## Summary of LOWI opinion 2016-02

Petitioner complained that Interested Party proceeded to submit articles without consent (of Petitioner) and that Interested Party refused to provide Petitioner with the information he requested, namely the complete original data set(s), the criteria for data selection, and the analysis concerning the manuscripts. Following this complaint, the Research Integrity Committee (RIC) found, *inter alia*, that Petitioner should have been allowed access to the complete files, but that it did not consider that the complaint had been correctly directed to Interested Party. There is no question of falsification or faking of research data. At most, there are careless mistakes, whether or not caused by omissions in databases beyond the control of Interested Party. Interested Party was not responsible for the parent files and the discussion regarding the provision of the files should not have taken place between Petitioner and Interested Party.

Acting on the advice of the RIC, the Board declared the complaint to be unfounded. Petitioner then submitted a request to LOWI.

Petitioner asserted, *inter alia*, that:

- Petitioner had not accused Interested Party of falsifying or faking data but of wrongly failing to provide access to databases and that the RIC had dealt with that matter insufficiently;
- the complaint had been correctly addressed to Interested Party, who was, after all, subject to the obligation to enter into the scientific debate and to provide sufficient access to data;
- the RIC should have held that Interested Party has acted culpably and that the requested information should have been made available to Petitioner;
- the data files had not been dealt with in the correct manner and that not providing the data, selection criteria, and analysis techniques made it impossible for Petitioner (as co-author and as supervisor of Interested Party) to conduct research with scientific integrity.

The most relevant findings in LOWI's opinion are given below.

- The dispute focuses on whether Interested Party did enough to provide Petitioner with access to the relevant databases and whether Interested Party requested sufficient (or only insufficient) consent for the submission of articles. In answering that question, a decision by the Board, in the light of a report by the Inappropriate Behaviour Complaints Committee [*Klachtencommissie Ongewenst Gedrag*] is relevant. By means of that decision, it was established that Petitioner displayed undesirable behaviour towards Interested Party. Before LOWI can determine whether Interested Party acted in accordance with the principle of verifiability, it must first decide whether Interested Party was required to act in accordance with that principle, without restriction, in relation to Petitioner;
- The file shows that there was a (seriously) disrupted relationship between Petitioner and Interested Party and that was sufficient reason for the co-supervisors to agree that Petitioner

and Interested Party should have no direct contact with one another. It also appears that Petitioner did not wish to comply with this;

- It goes without saying that the verifiability of scientific research is an important matter. In summary, Petitioner wished to have at his disposal the databases used by Interested Party and a request to access that data could, in itself, be made. However, Petitioner insisted that it should be Interested Party, specifically, that allowed him such access. Given his inappropriate behaviour and the agreement that there should be no direct contact between Petitioner and Interested Party, this cannot be classified as reasonable. That is especially so given that the co-supervisors (and others) also had access to the files used, and it was therefore unnecessary for the request for access to be directed specifically to Interested Party;
- In the opinion of LOWI, there was no valid reason to insist that the data be provided by Interested Party and to hold Interested Party responsible for the alleged incomplete access. LOWI also considers it relevant that Interested Party was a PhD candidate, that Petitioner had himself created a situation in which he risked his conduct being experienced as inappropriate, and that it could be expected that this would have consequences for the extent to which Interested Party might be asked to have contact, that Petitioner was relieved of his position as supervisor, and that Petitioner did not make use of the offer to withdraw as co-author;
- The file also shows that for the submission of two articles Interested Party requested the consent of all the co-authors, including Petitioner. Submission of a third article took place in the period when there was no longer any direct contact between Petitioner and Interested Party. It was then agreed with Interested Party that submission of that article would take place after consent had been given by co-supervisor 1, with co-supervisor 1 coordinating matters with Petitioner. Such an agreement – given the disrupted relationship – cannot be regarded as incorrect. Interested Party complied with that agreement. After Petitioner had objected to this course of events, co-supervisor 1 suggested that Petitioner could withdraw as co-author. Petitioner did not do so. If Petitioner considers that the coordination by co-supervisor 1 was insufficient, that is not something that Interested Party can be blamed for;
- Given the particular circumstances of the case, Interested Party could not be required to comply, without restriction, with the requirements arising from the principle of verifiability. LOWI also finds – similarly, in view of the particular circumstances of the case – that the agreements regarding submission of the third article are acceptable.

LOWI therefore finds – admittedly for different reasons to those of the RIC – that the request is unfounded and has advised the Board to accept the decision, in unchanged form, as the final decision.

On 22 February 2016, the Board took a decision in accordance with LOWI's opinion.